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EXAMINER

NORMAN, MARC E

ART UNIT PAPER NUMBER

3744

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/623,938

Applicant(s)

NERANJAN, DAVID D.

Examiner

Marc E. Norman

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 and 23 is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8,12-16,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 3,4,9-11 and 17-19 is/are objected to.
- 8) ☒ Claim(s) 20 and 23 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

In the previous Office Action, claims 1-23 were indicated as being allowable. However, upon further review of the prior art, new rejections are set forth below. Since these new rejections were not necessitated by amendment, prosecution is reopened and the present Office Action is made non-final. The Examiner apologizes that the references applied below were not found and applied earlier.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsujii et al.

As per claim 1, Tsujii et al. discloses an air temperature control arrangement comprising an air temperature control unit/cover 5, optical receiver 6 housed in the cover, and light guide 17 reflecting communicating with and reflecting light signals to the receiver.

As per claim 2, Tsujii et al. discloses light guide 17 comprising a reflecting surface directing light to receiver 6.

As per claim 21, the system of Tsujii et al. controls air temperature (via room side unit 1).

As per claim 22, the system is remotely controlled from transmitter 7.

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Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Pasquarette et al.

As per claim 12, Pasquarette et al. discloses an air temperature control assembly (thermostat, see Abstract, lines 2) comprising an air temperature control unit with cover assembly 10, and switch 18 in communication with the control unit (Figure 6), the switch comprising an arm as part of the cover assembly (column 4, lines 11-14), the arm flexible between actuated and unactuated positions (Figures 5 and 6), and configured to actuated manually.

As per claim 13, Pasquarette et al. discloses arm 18 being recessed from top surface of cover 10.

As per claim 14, Pasquarette et al. discloses post 34.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsujii et al. in view of Pasquarette et al.

As per claims 5-7, Tsujii et al. does not teach the control switch details as recited in these claims. However, such switch arrangements are taught by Pasquarette et al. as discussed above regarding claims 12-14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply such switches to the controller of Tsujii et al. for the purpose of manually controlling room-side unit 12.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsujii et al.

As per claim 8, official notice is taken that it is common and well-known for air temperature control systems to have multiple set points (for example temperature setback set points for nighttime). It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply such controls to the system of Tsujii et al. for the purpose of improving the comfort and energy efficiency of the system.

Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasquarette et al.

As per claim 15, Pasquarette et al. does not specifically state that the switch is used to actuate an air temperature set point. However, temperature set points are common and well known functions of temperature control systems, and would have been an obvious application of the switch of Pasquarette et al. for the purpose of directly controlling the temperature of a control space.

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As per claim 16, Pasquarette et al. does not teach an optical receiver in communication with the control unit. However, optical receivers are common and well-known features of temperature controllers (as part of remote control systems) that would have been obvious to apply to the thermostat Pasquarette et al. for the purpose of allowing the thermostat to be remotely controlled.

***Allowable Subject Matter***

Claims 3, 4, 9-11, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 20 and 23 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN



**MARC NORMAN**  
**PRIMARY EXAMINER**